

E AND R AMENDMENTS TO LB 682

Introduced by Larson, 40, Chairperson Enrollment and Review

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Sections 1 to 11 of this act shall be known
4 and may be cited as the Sewer Infrastructure Assistance Act.

5 Sec. 2. (1) The Legislature finds that municipalities
6 of the state face an urgent need to construct, upgrade,
7 redevelop, and replace sewer infrastructure facilities to reduce
8 combined sewer overflow. By providing sewer infrastructure
9 facilities, municipalities provide the building blocks for economic
10 development. Not only does the investment in infrastructure
11 generate an immediate stream of economic activity, it also lays
12 the groundwork for private investment that will use the facilities
13 so provided. Municipalities currently are in critical need of
14 assistance in providing these facilities. Municipalities are
15 limited in their ability to finance major infrastructure projects
16 and are generally required by federal regulation to follow a
17 cost-of-service user fee system to fund wastewater operations
18 and maintenance costs including replacement. Additionally, many
19 alternate financing options contain statutory budget and tax levy
20 restrictions. In order to minimize the burden on property taxpayers
21 in Nebraska, the Legislature finds that it is fair and equitable
22 to encourage the use of fees for services to finance major
23 infrastructure projects.

1 (2) The Legislature determines that it is in the public
2 interest to assist municipalities by establishing a fund to provide
3 funds to municipalities to be used to replace and redevelop sewer
4 infrastructure facilities to reduce combined sewer overflow.

5 (3) In order that the state may receive long-term
6 economic and fiscal benefits from such facilities, a need exists
7 to provide state assistance to municipalities endeavoring to
8 construct, acquire, substantially reconstruct, expand, operate,
9 improve, or equip such facilities.

10 (4) Therefor, it is deemed to be in the best interest
11 of the state and its municipalities that the state assist
12 municipalities in financing the construction, acquisition,
13 substantial reconstruction, expansion, operation, improvement, or
14 equipping of sewer infrastructure facilities.

15 (5) The amount of state assistance under the Sewer
16 Infrastructure Assistance Act shall be limited to the state sales
17 tax revenue collected by municipalities on the increase in monthly
18 sewer use fees attributable to combined sewer overflow projects on
19 and after July 1, 2011, for cities of the first class, cities of
20 the second class, and villages and on and after July 1, 2013, for
21 cities of the metropolitan class and cities of the primary class.

22 Sec. 3. For purposes of the Sewer Infrastructure
23 Assistance Act:

24 (1) Board means a board consisting of the Director
25 of Environmental Quality, the chief executive officer of the
26 Department of Health and Human Services, and the State Fire
27 Marshal;

1 (2) Bond means a general obligation bond, redevelopment
2 bond, lease-purchase bond, revenue bond, or combination of any
3 such bonds and a loan from the Wastewater Treatment Facilities
4 Construction Loan Fund;

5 (3) Combined sewer overflow project means a municipal
6 project to reduce overflows from a combined sewer system pursuant
7 to a long-term control plan approved by the Department of
8 Environmental Quality;

9 (4) Eligible facility means any facility that is
10 constructed or installed pursuant to an approved long-term control
11 plan;

12 (5) General obligation bond means any bond or refunding
13 bond issued by a municipality which is payable from the proceeds of
14 an ad valorem tax; and

15 (6) Revenue bond means any bond or refunding bond issued
16 by a municipality which is not payable from the proceeds of an ad
17 valorem tax.

18 Sec. 4. Any municipality that has acquired, constructed,
19 improved, or equipped or has approved a general obligation bond
20 issue or revenue bond issue to acquire, construct, improve, or
21 equip eligible facilities may apply to the board for state
22 assistance. The state assistance shall only be used (1) to
23 repay the debt borrowed through one or more issues of bonds
24 to be expended by the municipality to acquire, construct, improve,
25 and equip eligible facilities until repayment in full of the
26 amounts expended or borrowed by the municipality, including the
27 principal of and interest on bonds, for eligible facilities and

1 (2) to pay amounts to be expended by the municipality without
2 the issuance of bonds to acquire, construct, improve, and equip
3 eligible facilities.

4 Sec. 5. (1) All applications for state assistance under
5 the Sewer Infrastructure Assistance Act shall be in writing and
6 shall include a certified copy of the approving action of the
7 governing body of the applicant describing the proposed eligible
8 facility.

9 (2) The application shall contain:

10 (a) A description of the proposed financing of the
11 eligible facility, including the estimated principal and interest
12 requirements for bonds proposed to be issued in connection with the
13 eligible facility or, if no bonds are to be issued, a description
14 of the costs of the eligible facility; and

15 (b) Any other project information deemed appropriate by
16 the board.

17 (3) Upon receiving an application for state assistance,
18 the board shall review the application and notify the applicant of
19 any additional information needed for a proper evaluation of the
20 application.

21 Sec. 6. (1) After consideration of the application and
22 determination that the application conforms to all requirements
23 for eligibility for state assistance under the Sewer Infrastructure
24 Assistance Act, the board shall issue a finding that the combined
25 sewer overflow project described in the application is eligible for
26 state assistance.

27 (2) If the board finds that the project described in

1 the application is an eligible facility, the application shall be
2 approved.

3 (3) A majority of the board members constitutes a quorum
4 for the purpose of conducting business. All actions of the board
5 shall be by a majority vote of all the board members.

6 Sec. 7. If an application is approved, the Tax
7 Commissioner shall:

8 (1) Audit or review audits of the sewer use fees
9 collected by the municipality to determine the state sales tax
10 revenue and local option sales tax revenue collected by the
11 municipality on the increase in monthly sewer use fees attributable
12 to the combined sewer overflow project on and after July 1,
13 2011, for cities of the first class, cities of the second class,
14 and villages and on and after July 1, 2013, for cities of the
15 metropolitan class and cities of the primary class; and

16 (2) Certify annually the amount of such state sales tax
17 revenue collected by the municipality on such increased fees to the
18 State Treasurer.

19 Sec. 8. (1) The Sewer Infrastructure Fund is created.
20 Upon the annual certification under section 7 of this act, the
21 State Treasurer shall transfer the amount certified from the
22 General Fund to the Sewer Infrastructure Fund. Any money in the
23 fund available for investment shall be invested by the state
24 investment officer pursuant to the Nebraska Capital Expansion Act
25 and the Nebraska State Funds Investment Act.

26 (2) The board shall distribute from the fund to any
27 municipality for which an application for state assistance under

1 the Sewer Infrastructure Assistance Act has been approved an
2 amount not to exceed the lesser of the total cost of acquiring,
3 constructing, improving, or equipping the eligible facility or the
4 total state sales tax revenue collected by the municipality on the
5 increase in monthly sewer use fees attributable to the combined
6 sewer overflow project on and after July 1, 2011, for cities of the
7 first class, cities of the second class, and villages and on and
8 after July 1, 2013, for cities of the metropolitan class and cities
9 of the primary class. The distribution shall be conditioned upon
10 the municipality using the local option sales tax revenue collected
11 on the increase in monthly sewer use fees attributable to the
12 combined sewer overflow project for the same purposes as permitted
13 for the funds distributed under this section notwithstanding any
14 terms or conditions set forth in the resolution proposing the local
15 option sales tax. Funds distributed under this section shall be
16 used only to assist with the costs of acquiring, constructing,
17 improving, or equipping the eligible facilities, including any
18 financing costs, shall be kept in a separate fund, and shall not be
19 used to fund the general operations of the municipality.

20 (3) State assistance to the applicant shall no longer
21 be available upon the retirement of the bonds issued to acquire,
22 construct, improve, or equip the eligible facility or any
23 subsequent bonds that refunded the original issue, or if bonds
24 are not issued, upon payment of the cost to acquire, construct,
25 improve, or equip the eligible facility or when state assistance
26 reaches the amount determined under subsection (2) of this section,
27 whichever comes first.

1 Sec. 9. The applicant may issue from time to time its
2 bonds and refunding bonds to finance and refinance the acquisition,
3 construction, improvement, and equipping of eligible facilities and
4 appurtenant public facilities that are a part of the same project.
5 The bonds may be sold by the applicant in such manner and for such
6 price as the applicant deems appropriate.

7 Sec. 10. The Department of Revenue shall submit an annual
8 report to the Legislature on or before August 1 of each year which
9 includes, but is not limited to, a description of the demand for
10 state assistance under the Sewer Infrastructure Assistance Act, a
11 list of the recipients and amounts of state assistance awarded
12 pursuant to the act in the previous fiscal year, the status of each
13 project awarded state assistance, and an estimate of the number of
14 jobs created or sustained by each such project. The department may
15 require recipients of financial assistance to provide reports to
16 enable the department to fulfill the requirements of this section.

17 Sec. 11. The Department of Revenue may adopt and
18 promulgate rules and regulations to carry out the Sewer
19 Infrastructure Assistance Act.

20 2. On page 1, strike beginning with "Major" in line 1
21 through "Replacement" in line 3 and insert "Sewer Infrastructure".